

SEYFARTH SHAW LLP
Francis J. Ortman (SBN 213202)
fortman@seyfarth.com
Robb D. McFadden (SBN 258569)
rmcfadden@seyfarth.com
Emily E. Barker (SBN 275166)
ebarker@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

Attorneys for Defendants
AGILYSYS, INC., an Ohio Corporation;
AGILYSYS NV., LLC, a Delaware limited
liability company

COHELAN KHOURY & SINGER
Michael D. Singer, Esq. (SBN 115301)
msinger@ckslaw.com
605 "C" Street, Suite 200
San Diego, CA 92101-5305
Telephone: (619) 595-3001
Facsimile: (619) 595-3000

Attorneys for Plaintiffs and Class Members

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TERRELL JONES, a California resident;
MICHAEL JOHNSON, a Florida resident;
DERRICK PAIGE, a Texas resident;
WILFREDO BETANCOURT, a Nevada
resident; YOLANDA McBRAYER, a former
Colorado resident; and MICHAEL PIERSON,
a North Carolina resident, individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

AGILYSYS, INC. an Ohio corporation;
AGILYSYS NV, LLC, a Delaware limited
liability company; and DOES 1 through 100,
inclusive,

Defendants.

Case No. CV 12 3516 SBA

**JOINT STIPULATION AND MOTION
TO STAY MATTER AND TOLL FLSA
CLAIMS; ~~PROPOSED~~ ORDER**

Date Action Filed: July 6, 2012

1 Pursuant to Rules 6-1(b), 6-2, 7-12 and 16 of the Northern District Civil Local Rules,
2 Francis J. Ortman III, attorney for AGILYSYS, INC. and AGILYSYS NV, LLC (collectively
3 "Defendants"), and Michael D. Singer, lead attorney for Plaintiffs Terrell Jones, Michael Johnson,
4 Derrick Paige, Wilfredo Betancourt, and Yolanda McBrayer, submit the following stipulation
5 and [proposed] order regarding staying the case and tolling class claims.

6 WHEREAS, on July 6, 2012, plaintiffs Terrell Jones, Michael Johnson, Derrick Paige,
7 Wilfredo Betancourt, Yolanda McBrayer, and Michael Pierson (collectively, "Plaintiffs") filed a
8 Collective and Class Action Complaint for Damages and Injunctive Relief in the United States
9 District Court for the Northern District of California. (ECF No. 1.)

10 WHEREAS, on July 25, 2012, the Parties jointly stipulated to extend Agilysys' deadline
11 to file a response to the Complaint from July 27, 2012, to August 26, 2012. (ECF No. 5.)

12 WHEREAS, on July 27, 2012, the case was reassigned to Judge Hon. Sandra Brown
13 Armstrong. (ECF No. 7.) On July 30, 2012, the Court issued a Case Management Scheduling
14 Order setting an Initial Case Management Conference for October 10, 2012, at 3:00 p.m. (ECF
15 No. 8.)

16 WHEREAS, on August 9, 2012, Plaintiffs filed a First Amended Collective and Class
17 Action Complaint for Damages and Injunctive Relief ("FAC"). (ECF No. 9.)

18 WHEREAS, on or about August 22, 2012, the Parties met and conferred about the scope
19 and substance of the allegations in the FAC. Agilysys informed Plaintiffs that it was
20 contemplating filing a motion to dismiss and/or strike portions of the FAC. To avoid unnecessary
21 motion practice, the Parties agreed to informally exchange information and further discuss the
22 scope and substances of the allegations in the FAC.

23 WHEREAS, on August 23, 2012, the Parties filed a Joint Stipulation and Motion to
24 Extend Time to File A Responsive Pleading to the First Amended Complaint, in which they
25 requested that the Court extend Agilysys' deadline to file a response to the First Amended
26 Complaint from August 25, 2012, to September 26, 2012. (ECF No. 10.)

1 WHEREAS, on September 5, 2012, the Court granted the Parties' Joint Stipulation and
2 Motion to Extend Time to File a Responsive Pleading to the First Amended Complaint, extending
3 Agilysys' response deadline to September 26, 2012. (ECF No. 11.)

4 WHEREAS, despite their diligent efforts to meet and confer about the scope and
5 substance of the allegations in the FAC, the Parties thereafter agreed that more time was needed
6 to exchange information and discuss these matters in an effort to avoid unnecessary motion
7 practice.

8 WHEREAS, on September 18 and 19, 2012, the Parties met and conferred and further
9 agreed to jointly request that the Court continue the Initial Case Management Conference to
10 November 14, 2012, or as soon thereafter as would be convenient for the Court, along with all
11 associated Rule 26 deadlines. The Parties believed that it would better serve judicial efficiency to
12 conduct the Case Management Conference after Agilysys had filed a response to the Complaint.

13 WHEREAS On September 19, 2012, the Parties filed a Joint Stipulation and Motion to
14 Extend Time to File A Responsive Pleading to the First Amended Complaint, in which they
15 requested that the Court extend Agilysys' deadline to file a response to the First Amended
16 Complaint from September 26, 2012, to October 26, 2012. (ECF No. 12.)

17 WHEREAS On September 21, 2012, the Court granted the Parties' Joint Stipulation and
18 Motion to Extend Time to File a Responsive Pleading to the First Amended Complaint, extending
19 Agilysys' response deadline to October 26, 2012. (ECF No. 13.)

20 WHEREAS On October 23, 2012 the Parties met and conferred and agreed to participate
21 in additional informal discovery and mediation to be completed by February of 2013. The parties
22 believe that this matter may be amenable to informal resolution. The parties further agreed to
23 jointly request that the Court stay all proceedings and continue the Initial Case Management
24 Conference along with all associated Rule 26 deadlines and toll Plaintiffs' FLSA claims until
25 thirty (30) days after the completion of mediation. The Parties believed that it would better serve
26 judicial efficiency to conduct the Case Management Conference after Agilysys had filed a
27 response to the Complaint.

1 NOW THEREFORE, the parties hereby stipulate and agree, as follows:

2 1. All proceedings in this action shall be stayed upon entry of this Order by the Court
3 until March 15, 2013;

4 2. The parties agree that the case management conference scheduled for December 6,
5 2012 is unnecessary in light of the above, and therefore jointly request that this Court continue the
6 Initial Case Management Conference to a date convenient for the court after March 15, 2013.
7 The parties further agree that all Rule 26 Meet and Confer deadlines should be continued and re-
8 calendared based on the date of the rescheduled Initial Case Management Conference.

9 3. The parties agree that the statute of limitations on Plaintiffs' FLSA claims is tolled
10 for the duration of the stay.

11
12
13 DATED: October 25, 2012

Respectfully submitted,

14 SEYFARTH SHAW LLP

15
16 By: /s/ Francis J. Ortman III
Francis J. Ortman III

17 Attorneys for Defendants
18 AGILYSYS, INC., and AGILYSYS NV., LLC

19 DATED: October 25, 2012

Respectfully submitted,

20 COHELAN KHOURY & SINGER

21
22 By: /s/ Michael D. Singer
23 Michael D. Singer

24 Attorneys for Plaintiffs/Class members

ORDER

PURSUANT TO THE STIPULATION OF THE PARTIES, and finding good cause therein, IT IS HEREBY ORDERED that:

(1) All proceedings in this action shall be stayed upon entry of this Order by the Court until March 15, 2013; and,

(2) The Initial Case Management Conference originally scheduled for December 6, 2012, shall be continued to **March 20, 2013 at 2:30 p.m.** Prior to the date scheduled for the conference, the parties shall meet and confer and prepare a joint Case Management Conference Statement which complies with the Standing Order for All Judges of the Northern District of California and the Standing Orders of this Court. Plaintiffs shall assume responsibility for filing the joint statement no less than seven (7) days prior to the conference date. Plaintiffs' counsel is to set up the conference call with all the parties on the line and call chambers at (510) 637-3559.

NO PARTY SHALL CONTACT CHAMBERS DIRECTLY WITHOUT PRIOR AUTHORIZATION OF THE COURT. All Rule 26 Meet and Confer deadlines are continued and re-calendared based on the date of the rescheduled Initial Case Management Conference.

(3) The statute of limitations on Plaintiffs' FLSA claims is tolled for the duration of the stay.

(4) This Order terminates Docket 14.

(5) Plaintiffs are directed to serve a copy of this Order at once on all parties to this action in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure not enrolled in the e-filing program. Following service, the party causing the service shall file a certificate of service with the Clerk of Court.

IT IS SO ORDERED.

DATED: __10/26/12


HON. SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT COURT JUDGE